

EDWARD H. KUBO, JR. # 2499
United States Attorney
District of Hawaii

DARREN W.K. CHING #6903
Assistant U.S. Attorney
Room 6100, PJKK Federal Bldg.
300 Ala Moana Blvd.
Honolulu, Hawaii 96850
Telephone: (808)541-2850
Facsimile: (808)541-9546
Darren.Ching@usdoj.gov

Attorneys for Plaintiff
United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 04-00053 DAE
)	
Plaintiff,)	SUPPLEMENTAL AMENDED JOINT
)	PROPOSED JURY INSTRUCTIONS;
vs.)	CERTIFICATE OF SERVICE
)	
SILVER JOSE GALINDO,)	
aka Daniel S. Galindo,)	
aka Timothy Mau,)	Date: April 1, 2008
)	Time: 9:00 a.m.
Defendant.)	Judge: David Alan Ezra
)	

SUPPLEMENTAL AMENDED JOINT PROPOSED JURY INSTRUCTIONS

On March 27, 2008, the attorneys for the government and the defendant met to discuss jury instructions. The following supplemental amended joint jury instructions are hereby provided to this Court, which both sides have approved. This includes two more instructions to be added to the Amended Joint Proposed Jury Instructions filed on March 20, 2008.

The remaining disputed jury instructions will be separately submitted by the respective proponent party for the Court's resolution. Accordingly, the government will submit Second Amended Government's Proposed Jury Instructions and the Defendant will submit Defendant's Third Amended Proposed Jury Instructions.

DATED: March 28, 2008, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

/S/ Darren W.K. Ching

DARREN W.K. CHING
Assistant U.S. Attorney

/s/ Jack Schweigert

JACK SCHWEIGERT
Attorney for Defendant
SILVER JOSE GALINDO

SUPPLEMENTAL AMENDED JOINT PROPOSED JURY INSTRUCTION NO. 33

A person has possession of something if the person knows of its presence and has physical control of it, or knows of its presence and has the power and intention to control it.

Ninth Circuit Model Jury Instruction 3.18 (2007)

GIVEN _____
REFUSED _____
MODIFIED _____

SUPPLEMENTAL AMENDED JOINT PROPOSED JURY INSTRUCTION NO. 34

In this case, there has been testimony from government witnesses who pled guilty after entering into an agreement with the government to testify. There is evidence that the government agreed to bring the witness' cooperation to the attention of the sentencing court. The government is permitted to enter into this kind of plea agreement. You, in turn, may accept the testimony of such a witness and convict the defendant on the basis of this testimony alone, if it convinces you of the defendant's guilt beyond a reasonable doubt. However, you should bear in mind that a witness who has entered into such an agreement has an interest in this case different than any ordinary witness. A witness who realizes that he may be able to obtain his own freedom, or receive a lighter sentence by giving testimony favorable to the prosecution, has a motive to testify falsely. Therefore, you must examine his testimony with caution and weigh it with great care. If, after scrutinizing his testimony, you decide to accept it, you may give it whatever weight, if any, you find it deserves. I further instruct you that you may not draw any conclusions or inferences about the guilt of the defendant on trial here from the fact that prosecution witnesses pled guilty to similar charges.

GIVEN _____
REFUSED _____
MODIFIED _____

CLEAN SET OF JURY INSTRUCTIONS

INSTRUCTION ____

A person has possession of something if the person knows of its presence and has physical control of it, or knows of its presence and has the power and intention to control it.

INSTRUCTION ____

In this case, there has been testimony from government witnesses who pled guilty after entering into an agreement with the government to testify. There is evidence that the government agreed to bring the witness' cooperation to the attention of the sentencing court. The government is permitted to enter into this kind of plea agreement. You, in turn, may accept the testimony of such a witness and convict the defendant on the basis of this testimony alone, if it convinces you of the defendant's guilt beyond a reasonable doubt. However, you should bear in mind that a witness who has entered into such an agreement has an interest in this case different than any ordinary witness. A witness who realizes that he may be able to obtain his own freedom, or receive a lighter sentence by giving testimony favorable to the prosecution, has a motive to testify falsely. Therefore, you must examine his testimony with caution and weigh it with great care. If, after scrutinizing his testimony, you decide to accept it, you may give it whatever weight, if any, you find it deserves. I further instruct you that you may not draw any conclusions or inferences about the guilt of the defendant on trial here from the fact that prosecution witnesses pled guilty to similar charges.

CERTIFICATE OF SERVICE

I hereby certify that on the date and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at his last known address:

Served by Facsimile:

JACK SCHWEIGERT, ESQ.
The Lawyers Building
550 Halekauwila, Room 309
Honolulu, HI 96813

March 28, 2008

Attorney for Defendant

/s/ Darren W.K. Ching
U.S. Attorney's Office
District of Hawaii